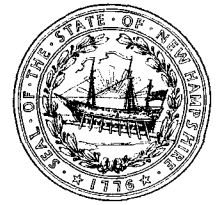




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

**LETTER OF DEFICIENCY
SP 05-013**

December 22, 2005

Jose Pinales
138 Flower Ln
Dracut, MA 01826

RE: DES Wetlands File #2005-01588 Heath Dr., Gilmanton

Dear Mr. Pinales:

On December 6, 2005, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of Gilmanton Tax Map 39 as Lot 5-3 (the "Property"). The purpose of the inspection was to determine compliance with RSA 483-B and NH Code of Admin. Rules Env-Ws 1400-1411.

During the inspection the following deficiencies were documented on Crystal Lake:

1. A healthy well-distributed stand of trees has not been left in place within 150 feet from the reference line (normal high water mark).
2. DES took measurements of standing trees and stumps, which after calculation, exceeded the 50 percent basal area. Approximately 46.4 square feet of potential basal area was documented on the property, of which 26.6 square feet of basal area was removed and 19.8 square feet was left standing. Therefore 3.4 square feet needs to be replaced.

Additional observations along the shoreline suggest the presence of a larger wetland complex on the subject property than noted on the approved septic plan. DES personnel documented the presence of pitcher plant, wool grass, sphagnum moss and other hydrophytic vegetation through the center of the property extending approximately 40 feet back from the reference line. The approved septic plan documented a wetland area extending from 120 to 60 feet back from the reference line, with no closure of the delineation towards the reference line.

Pursuant to RSA 483 B: 9 V. (a) Not more than a maximum of 50 percent of the basal area of trees, and a maximum of 50 percent of the total number of saplings shall be removed for any purpose in a 20 year period. A healthy, well-distributed stand of trees, saplings, shrubs and ground covers and their living, undamaged root systems shall be left in place.

Therefore, in response, you are requested to take the following actions, **within 30 days** of receipt of this Letter of Deficiency:

1. Hire a New Hampshire certified wetlands scientist to delineate all wetland boundaries on the property.
2. Provide DES with a plot plan documenting the sizes and locations of all existing and removed trees, saplings, and shrubs on the site within 150 feet of the reference line;
3. Submit a restoration plan to DES.

The restoration plan should include replacement of native and natural vegetation consistent with the natural shoreline of Crystal Lake. Please submit the following with the restoration plan:

- a. A plan with dimensions, drawn to scale, showing:
 - i. existing conditions, to include the Normal High Water Line (reference line), wetland boundaries;
 - ii. proposed conditions after restoration of the natural wetland buffer with native vegetation;
 - b. A detailed description of the proposed means of erosion and sediment controls and stabilization of the restoration area;
 - c. A detailed description of the proposed planting plan for the stabilization and revegetation of the restoration area. A planting plan showing the numbers, type of plant species, proposed location of plantings, and diameters of the plant species. DES requests tree replacements be a mix of 1.5" to 2-3" caliper, randomly spaced on the property, from the list of New Hampshire native and naturalized species that do well in wet soils (copy enclosed).
 - d. A description of the proposed construction sequence and methods for accomplishing the restoration, and time frame for completion.
4. Retain a qualified wetland scientist or qualified environmental consultant to supervise the implementation of the restoration plan and to submit the restoration progress reports.
 5. Implement the restoration plan only after receiving written approval and as conditioned by DES.

RSA 483-B, the New Hampshire Comprehensive Shoreland Protection Act, was enacted to protect and preserve the shorelands of the State to maintain the integrity and exceptional quality of the State's public waters. RSA 483-B and Env-Ws 1400-1411 establish minimum standards for the future subdivision, use, and development of the shorelands within 250 feet of the state's public waters.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 483-B and RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

Jeffrey D. Blecharczyk
Wetlands Bureau
Department of Environmental Services
29 Hazen Drive
PO Box 95
Concord, NH 03302-0095

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact Jeffrey D. Blecharczyk at (603) 271-6876.

Sincerely,

 **COPY**

Collis G. Adams, CWS
Administrator
Wetlands Bureau

CERTIFIED MAIL 7005 0390 0001 8431 6540

cc: Rene Pelletier, Manager, Land Resources Management Program
Gretchen R. Hamel, Administrator, DES Legal Unit ✓
Gilmanton Conservation Commission
Gilmanton Board of Selectmen
USACOE